

ARTICLE III. EXECUTIVE BRANCH

Section 3.01. Executive and administrative powers.

The executive and administrative powers of the Shelby County government shall be vested in and exercised by the county mayor, also called the executive branch, and, under the mayor's control and direction, by such subordinate major divisions, departments, boards, offices, officers and agencies as established from time to time.

NOTES:

1. Prior executive power rested with the board of county commissioners, Ch. 237, Pvt. 1911. That board was not a legislative body. See Note 1 to sec. 1.01.
2. The Court of Appeals in the case of *Shelby County v. Leonard Ray Blanton* held in an opinion of July 25, 1978, "that the selection of a county depository is an administrative function and that the county mayor is the person authorized to select the depository." However, the mayor must follow the provisions of Chapter 481, Private Acts of 1917 except where the act mentions the county court or its chairman; in those sections the mayor is to be inserted. Chapter 281, Private Acts of 1917 is codified in §§ 13-31 through 13-36 of the Shelby County Code of Ordinances.

Section 3.02. Executive branch.

The county mayor shall be the head of the executive branch of Shelby County government, responsible for the exercising of all executive and administrative functions of the county government and shall be the chief fiscal officer of the county. He shall devote his full time to the performance of his duties as county mayor.

Section 3.03. County mayor duties.

The county mayor shall:

- A. See that all resolutions and ordinances of the board of county commissioners and all laws of the state subject to enforcement by them or by officers who are subject, under this charter, to their direction and supervision are faithfully executed; provided, however, the county mayor shall not assume any of the constitutional or statutory duties of the sheriff.
- B. Prepare and submit to the board of county commissioners with the assistance of appropriate department heads and other responsible officials the budgets and financial reports. The county mayor shall present the consolidated budget of the county to the board of county commissioners as set forth by resolution in order for the board of county commissioners either to approve said budget as presented or to modify and amend the same as may be deemed requisite in order to determine the amount of taxes necessary to be levied. The adoption of the budget shall be by resolution.
- C. Examine regularly the accounts, records and operations of every department, office and agency of the Shelby County government; make regular reports to the board of county commissioners on the affairs of the Shelby County government; keep the board of county commissioners fully advised on the financial condition and future needs of the Shelby County

government; and make such recommendations on Shelby County government affairs as he deems appropriate.

D. Take such other executive and administrative actions as are required by this charter or may be prescribed by the board of county commissioners.

E. Have power to contract with the various municipalities and agencies in the county for the consolidation of duplicating and overlapping services and functions, upon concurrence by the board of county commissioners by ordinance. To this end, the mayor may contract with any city, town, or agency to have such overlapping or duplicated services performed by the county or by any such city, town or agency, or by some office to be administered jointly by the contracting units. The mayor may also contract with one or more neighboring states or counties, or both, for jointly conducting an institution or other service which may be rendered more efficiently or economically, or both, through a centralized institution, enlarged personnel, improved facilities, etc. serving more than one contracting unit.

F. Provide for and maintain all accounting systems necessary for the Shelby County government and for each department, office and agency thereof. The mayor shall maintain such systems in accordance with generally accepted accounting principles applicable to governmental entities, keeping accounting records for and exercising financial and budgeting control over such department, office or agency. All warrants in payment of obligations of the county government shall be signed by an officer as may be designated by law and countersigned by the county mayor, either in person or by facsimile.

G. Have a veto power over the annual budgets of the county which may be exercised by vetoing specific items or parts of items without invalidating the whole. The veto shall be exercised and may be overridden by the same procedure as provided in section 2.07. Provided, however, the mayor shall not have line item veto over the budgets of the elected county officials and clerks of courts.

H. Nominate members of all boards, authorities and commissions, and their appointment shall be subject to approval by resolution of the board of county commissioners. All such appointees shall be residents of Shelby County at the time of their appointment and at all times while serving on said board, authority or commission. The mayor shall submit any such nomination within 60 days of the vacancy to be filled.

I. (1) Have the authority to remove and discharge the members appointed in paragraph (H) above for good cause shown, subject to the approval by resolution of the board of county commissioners of Shelby County.

(2) In addition, the chairman of the board of county commissioners of Shelby County is hereby empowered to commence said removal procedures if the county mayor shall fail or refuse to act within ten days after written demand by the chairman. Any removal proceeding commenced by the chairman of the board of county commissioners of Shelby County shall be subject to the veto procedures contained herein.

J. Have the right to serve individually or to appoint from the administrative assistants, executive assistants or any head of any division or department of county government, in writing, a designee, to serve in place and stead of the mayor on any board or commission of which the county mayor is a member by law, and said designee shall have all powers including the power to vote as are conferred upon the county mayor. Any designee appointed by the county mayor under the provisions of this section shall be appointed to serve in that capacity for at least one year, or the remainder of the term of office of the county mayor, whichever is less. During such periods of appointments, either the specified designee or the county mayor may exercise the voting powers granted by this section. However, at any meeting attended by the mayor, only the mayor shall exercise the voting power.

K. Negotiate and execute loans, bonds, notes and other evidences of indebtedness to the extent provided in the resolution authorizing the same, and direct the investment of funds.

L. Maintain the records of county indebtedness and have charge of the payment of principal and interest thereon.

M. Examine all contracts, orders and other documents by which financial obligations are incurred by the county or any of its officials or offices, indicate the availability of funds to meet these obligations, and certify thereto.

N. Except for contracts that are in the nature of franchises, have the sole power and authority to enter into contracts on behalf of Shelby County, except as otherwise provided in this charter, and subject to budgetary limitations. Contracts and purchases on behalf of the Shelby County government shall be entered into by the county mayor or the mayor's designee. On all contracts in an amount greater than \$50,000.00 or a greater amount as established in advance by the county commission, the mayor shall obtain the approval of the county commission prior to execution.

NOTES:

1. Subsection N – Contract amount requiring approval by board of county commissioners increased to an amount greater than \$100,000 by Res. No. 21, 11-5-07.

2. Subsection B -- Amended pursuant to voter referendum of 8-7-08, effective 9-1-08 (Ord. No. 361, 6-2-08).

Section 3.04. County mayor--Term, qualifications, compensation.

The county mayor shall be elected each four years, commencing with the August 1986 general election, and shall take office on September 1 following his election. He shall be 18 years of age or older, a resident of Shelby County at least one year prior to filing for this office at the time of his election and during his term of office. Effective September 1, 2018, the county mayor's salary shall be set based upon Tennessee Code Annotated, Section 8-24-102, as may be from time to time amended by the Tennessee State General Assembly, and shall be adjusted annually based on the statutory requirements. The salary of the County Mayor may be changed from time to time by Ordinance of the County Commission; provided, however, that no change in salary by the Board of County Commissioners shall take place during the term for which the County Mayor was elected and may not be set lower than the amount called for by Tennessee Code Annotated,

Section 8-24-102.

NOTES:

1. Pursuant to Ord. No. 54, adopted on October 2, 1989, the mayor's salary for the period of September 1, 1990 through August 31, 1994, is \$96,513.33, with an annual expense allowance of \$10,000.00.
2. Amended pursuant to voter referendum of 8-2-18, effective 9-1-18 (Ord. No. 482, 5-14-18).

Section 3.05. County mayor--Vacancy.

A. If a vacancy occurs in the office of county mayor by death, resignation, removal, or disability, or otherwise, the chairman of the board of county commissioners shall serve as acting mayor. If the chairman of the board of county commissioners is unable or unwilling to serve as acting county mayor for any reason, the chairman pro tempore of the board of county commissioners shall serve as acting mayor.

B. The chairman or chairman pro tempore shall serve as the acting county mayor until an interim county mayor is elected by the board of county commissioners. While serving as acting county mayor, the chairman or chairman pro tempore shall not exercise the powers of his office as chairman, chairman pro tempore, or county commissioner. The board of county commissioners shall appoint an interim county mayor within forty-five (45) days after the chairman or chairman pro tempore begins serving as acting county mayor.

C. The interim county mayor shall serve until a successor is elected and qualified at the next countywide election allowed by the state election laws.

NOTES:

1. Amended pursuant to voter referendum of 8-7-08, effective 9-1-08 (Ord. No. 361, 6-2-08).

Section 3.06. Creation of offices, division, departments.

A. There is hereby established the office of chief administrative officer, who shall serve directly under the county mayor. The chief administrative officer shall be appointed by the mayor, subject to the concurrence by resolution of the board of county commissioners, and shall be subject to dismissal by the mayor without cause.

B. The county mayor, subject to approval by resolution of the board of county commissioners, may create or abolish major divisions of county government with each division having a division director. The chief administrative officer, the division directors of the county, the county attorney, the public defender, and the divorce referee shall be appointed by the county mayor, subject to approval by resolution of the board of county commissioners, and shall be subject to dismissal by the mayor without cause, and shall be residents of Shelby County at the time they assume the duties of their office and at all other times while serving the county in such capacity.

C. Any function or duty may be assigned or reassigned by the county mayor to a major division of county government, except that the county mayor acting alone shall have the power to veto ordinances and resolutions of the board of county commissioners as set forth hereinbefore and the power to remove without cause the chief administrative officer, division directors, the county attorney, the public defender and the divorce referee.

D. The duties, powers and functions of the departments within the divisions of the Shelby County government shall be generally as set by ordinance, and their jurisdiction shall extend throughout the Shelby County government.

NOTES: Some former changes in titles are as follows:

1. Division of public works, fire and corrections deleted and replaced by division of public works. Ch. 112., Pvt. 1979.
2. Director of the division of fire and corrections added by Ch. 112, Pvt. 1979.
3. Administrator of finance changed to comptroller wherever it appears in this Act. Pursuant to Ch. 37, Pvt. 1979.
4. Division heads changed from "director" to "administrator" by Ch. 92, Pvt. 1977.

Section 3.07. Budget procedures.

A. The head of each county department shall furnish to the county mayor in a form specified by the mayor:

- (1) Estimates of the revenues and expenditures of the office for the ensuing fiscal year,
- (2) Estimates of the costs of any capital improvements pending or proposed to be undertaken (1) within the ensuing fiscal year and (2) within the four fiscal years immediately thereafter, and
- (3) Such other information as the county mayor requests.

B. All elected county officials and clerks of courts shall submit their budgets to the county mayor for the purpose of that office submitting a consolidated budget; provided, however, none of the aforementioned subparagraphs (1) through (3) of 3.07A shall be applicable to this submission. The county commission may adopt a resolution requiring all offices which receive appropriations from the county government to submit a multi-year budget, unless contrary to state law. However, it is within the discretion of the county commission to adopt said multi-year budget. The county commission may also adopt by resolution any other budget procedures deemed necessary.

C. All offices which receive appropriations from the county government shall adhere to the budget as finally approved, both in total and in line item detail, except that the county mayor shall have authority to approve transfers between line items within the total amount of each category of personnel and operation-maintenance as set forth in the approved budget for any such office, division or department of county government. However, the board of county commissioners, in the appropriation resolution may authorize the county mayor to approve

transfers from line items in personnel categories to operation-maintenance categories and vice versa, for any such office, division, or for any department of county government. Requests for such variations shall be submitted to the board of county commissioners by the county mayor; provided however, all such variations submitted by elected county officials shall be automatically submitted to the board of county commissioners by the county mayor. At any time, upon written request of the county mayor, the board of county commissioners may transfer part or all of any unencumbered appropriation balance from one division or department to another. The revenues and expenditures of each division shall be credited and charged to each specific division or department to establish a net revenue or net expenditure for said division or department. The board of county commissioners shall establish line items and appropriate on a net expenditure basis. Capital appropriations shall not be varied except with the approval of the board [of] county commissioners. No transfer shall be made from appropriation for debt service, and no appropriation may be reduced below any amount required by law to be appropriated.

NOTES:

1. Subsection B - Amended pursuant to voter referendum of 8-7-08, effective 9-1-08 (Ord. No. 361, 6-2-08).

Section 3.08. Special offices of Shelby County government.

A. Legal department--County attorney, selection, qualifications, authority, duties and powers.

- (1) There is hereby created the legal department of the Shelby County government. The county attorney shall be appointed by the county mayor with the concurrence of a resolution of the Board of County Commissioners. The county attorney shall, at the time of that appointment, be a citizen of the United States, have had no less than five years experience in the practice of law, and shall be licensed and qualified to practice law in all courts of Shelby County. The county attorney shall be subject to dismissal by the County Mayor with the concurrence of a Resolution of the Board of Commissioners with the concurrence of a Resolution of the Board of Commissioners without cause. The county attorney shall devote full time to the performance of his duties.
- (2) The county attorney shall act as chief counsel to the Shelby County government, and he shall act as legal advisor to the county mayor, the county commission, and to all departments, officers and officials of the Shelby County government and shall perform such other duties as may [be] required.

B. Public defender. The public defender shall be appointed by the county mayor with a concurrence of a majority of the board of county commissioners. The public defender shall serve for a period of one year from the date of that appointment or until a successor is appointed. The public defender shall, at the time of his appointment, be a citizen of the United States, have had no less than five years experience in the practice of law, and shall be licensed and qualified to practice law in all courts of Shelby County.

C. Divorce referee.

- (1) The divorce referee shall be appointed by the county mayor with a concurrence of a majority of the board of county commissioners, and shall serve for a period of one year from the date of that appointment or until a successor is appointed. The divorce referee shall, at the time of his appointment, be a citizen of the United States, have had no less than five years experience in the practice of law and shall be licensed and qualified to practice law in all courts of Shelby County.
- (2) When a vacancy occurs in the office of divorce referee, the judges of circuit and chancery courts and other courts exercising divorce jurisdiction may submit names of qualified persons to the mayor for consideration.

NOTES:

1. County attorney. Originally created by Ch. 2, Pvt. 1937, as amended by Ch. 116, Pvt. 1955; Ch. 294, Pvt. 1975. Restructure Act superseded those Acts. See Administration, Shelby County Code of Ordinances, Chapter 2.
2. Public defender. Originally authorized by Ch. 69, Pvt. 1917. See Public Officers, Shelby County Code of Ordinances, Chapter 24.
3. Divorce referee. Prior office of divorce proctor authorized by Ch. 121, Pvt. 1915; later amended by Ch. 161, Pvt. 1973. See Public Officers, Shelby County Code of Ordinances, Chapter 24.
4. Section A (1) amended pursuant to voter referendum off 11-28-16, effective 8-29-16 (Ord. No. 466.)